

16 C.J.S. Constitutional Law § 5

Corpus Juris Secundum | November 2021 Update

Constitutional Law

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PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

I. Definitions; Nature and Authority of Constitutions

B. Nature and Authority of Constitutions

1. In General

§ 5. Constitution as fundamental law

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 500 to 502

A constitution is the fundamental or basic law to which all others must conform, and the function of a constitution is to establish the framework and general principles of government.

The scope of constitutions generally includes not only the frame of government and a bill of rights but also numerous administrative provisions.¹ Viewed from the standpoint of legal character, a constitution is the fundamental or basic law to which all other laws must conform.²

Accordingly, the function of a constitution is to establish the framework and general principles of government.³ It is the supreme written will of the people regarding the framework for their government.⁴ The federal and state constitutions also establish and guarantee rights which they place beyond the power of the temporary majority, parliamentary or otherwise, to abridge.⁵

They establish an objective standard of conduct by which all departments of the government are bound⁶ so that the constitution may endure and meet unanticipated, changed conditions without alteration.⁷ Indeed, a constitution is intended to endure for ages to come, and must adapt itself to a future that can only be seen dimly, if at all.⁸

The purpose of a constitution, then, is not to legislate in detail but to set limits on the otherwise plenary power of the legislature.⁹

Alteration of governmental rights.

Inherent rights appertaining to any branch of government may be altered by the constitution.¹⁰

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Footnotes

- 1 Okla.—*Frantz v. Autry*, 1907 OK 65, 18 Okla. 561, 91 P. 193 (1907).
- 2 Del.—*State ex rel. Morford v. Emerson*, 40 Del. 233, 8 A.2d 154 (Super. Ct. 1939).
- 3 Ala.—*Hornsby v. Sessions*, 703 So. 2d 932 (Ala. 1997).
- 4 Neb.—*Home Builders Ass'n of Lincoln v. City of Lincoln*, 271 Neb. 353, 711 N.W.2d 871 (2006).
- 5 Or.—*In re Public Utilities Com'r of Or.*, 201 Or. 1, 268 P.2d 605 (1954).
- 6 Mass.—*In re Opinion of the Justices*, 324 Mass. 746, 85 N.E.2d 761 (1949).
- 7 Iowa—*In Interest of Johnson*, 257 N.W.2d 47 (Iowa 1977).
Constitution intended to govern future contingencies
Kan.—*In re Lietz Const. Co.*, 273 Kan. 890, 47 P.3d 1275 (2002).
- 8 U.S.—*N.L.R.B. v. Noel Canning*, 134 S. Ct. 2550, 189 L. Ed. 2d 538 (2014).
- 9 Utah—*Dean v. Rampton*, 556 P.2d 205 (Utah 1976).
Limits of governmental activity
Va.—*Dean v. Paolicelli*, 194 Va. 219, 72 S.E.2d 506 (1952).
- 10 Mich.—*Civil Service Com'n of Michigan v. Auditor General*, 302 Mich. 673, 5 N.W.2d 536 (1942).

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